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Supreme Court, U.S.
FILED
MAY 17 1986
JOSEPH F. SPANIOL, JR.
CLERK

NO. 85-1891

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1985

DON RAY PHINNEY,

Petitioner,

vs.

FIRST AMERICAN NATIONAL BANK,

Respondent.

PETITION FOR WRIT OF MANDAMUS TO THE UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF TENNESSEE

DON RAY PHINNEY
P.O. Box 451
Lake Jackson, TX 77566
(409) 265-2336

Petitioner In Pro Se.

QUESTIONS PRESENTED

I. Whether a Federal Judge is under a mandatory duty to recuse himself from hearing a case where:

1. The Judge had held stock in the Respondent's corporation.
2. The Judge has an outstanding loan of $58,000 with the Respondent at the time of the trial.
3. The Judge did not reveal the amount of money he received from the Respondent while he was on the Respondent's pay roll for 4 months just prior to the trial.
4. The Judge failed to make a disclosure of any of these facts.

II. Whether this Court should reinstate the jury verdict when new evidence shows that the Federal Judge who

reversed the unanimous jury verdict of 1.25 million dollars in favor of the Petitioner, received a $10,000 loan from the Respondent after the trial while the judge himself was granting the judgement n.o.v. motion against the Petitioner by using false evidence.

III. Whether this highest Court should award the Petitioner the money he won at the trial or the amount of money he would have won at the trial, if the Judge had not dismissed the jury from the court room at the time the evidence proved that the Petitioner had signed contracts with Raymond Katz Ltd., and RCA Victor Records, value totaling 18 million dollars.

IV. Whether this court has appellate jurisdiction to grant the Petitioner an extraordinary writ authorized by 28 U.S.C. 1651 (a), when a federal judge

has rendered a decision in conflict with the decision of another federal judge on the same matter.

V. Whether this Court has to order a new trial, if a lower Court orders a new trial if a higher Court overturns the decision of the lower Court.

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Sixth Circuit filed March 12, 1984, is reproduced in the Appendix of the Respondents "Brief In Opposition To Petition For A Writ of Certiorari To the United States Court of Appeals For the Sixth Circuit." In the Supreme Court of the United States No. 83-2008.

The Memorandum Opinion and Order of District Judge C.G. Neese, entered January 7, 1983, is reproduced in the Appendix of the Respondents Reply Brief No. 83-2008.

The Order and Memorandum of District Judge Thomas A. Wiseman, entered June 1, 1979, is reproduced in the Appendix page App. 3 of the Reply Brief of the Respondents, No. 83-2008.

The Order of the United States Court of Appeals for the Sixth Circuit, entered March 18, 1981 is reproduced in the Respondents Brief App. 43, No. 83-2008.

NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1985

DON RAY PHINNEY,

Petitioner,

vs.

FIRST AMERICAN NATIONAL BANK,

Respondent.

PETITION FOR WRIT OF MANDAMUS

TO THE UNITED STATES DISTRICT

COURT, MIDDLE DISTRICT OF TENNESSEE

Plaintiff Don Ray Phinney (hereinafter referred to as "Petitioner") hereby submits the following Extraordinary Writ

authorized by 28 U.S.C. 1651 (a). In addition to the Petitioner herein the other party to the proceeding is the Defendant First American National Bank of Nashville, Tennessee (hereinafter referred to as "Respondent").

STATEMENT OF THE CASE

This case was originally filed on September 3, 1971 in the United States District Court for the Central District of California. Prior to this time the Respondent had caused a Governor's Warrant to be instituted against Petitioner in 1967, and he was extradited from Hollywood California to Nashville Tennessee. It was found that Petitioner had a bank note in the banks active note files to cover the 5 checks the Respondent bank had maliciously prosecuted the Petitioner on. After the Respondent's last appeal to the Tennessee State Supreme Court had failed, the Respondent refused to take the case into the Federal Courts. Petitioner at this point filed his law suit against the Respondent.

This case was finally transferred to the Middle District of Tennessee on June

28, 1974, by transfer from the District Court in the Western District of Tennessee.

On the day the trial was to commence, Judge Thomas Wiseman Jr. posponed the trial for one day, and held a conference of the lawyers. Petitioner was told by his attorney, Gareth Aden, that a new judge was replacing Judge Rubin, and that he had a checking account with the Respondent and had worked for the Respondent, but that it would not cloud the Judge's mind. He also told the Petitioner that all of his witnesses were there from Texas and California, and it would cost too much money to cancel the trial and that he, the attorney, was ready for the trial and that he would have to also charge the Petitioner a great deal of money if he posponed the trial. The Petitioner then inquired of his attorney to find out if the new Judge had any stock involvement or outstanding loans with the Respondent. Gareth Aden told the Petitioner,

"Absolutely Not", and told the Petitioner in this case the jury would be deciding this case, not the Judge. The Petitioner agreed on these terms to let Judge Thomas Wiseman Jr. hear his case. Since this was the Judges first case the Petitioner believed that the Judge was making a full disclosure of his dealings with the Respondent, and that it would not cloud his judgment, and that the jury would be deciding the case. At this time there was a clear conspiracy between the Respondent, Petitioner's attorney, and Judge Wiseman. The Petitioner decided at this point to make sure that the jury was not involved with the Respondent in this trial, as stock holders and loan holders of the Respondent were on the 1968 criminal trial of the Petitioner. The Petitioner had to prove that fraud, perjury and forgery took place at his criminal trial in order to win his malicious prosecution case against the Respondent in his 1978 civil law suit against the Respondent bank, at this time

known as, First American National Bank of Nashville, after losing their last appeal the Respondent changed it's name to, First American Bank of Nashville, and their holding company from First Amtenn Corporation to First American Corporation

If Petitioner had not taken precaustions, he would not only have had stockholders and loan holders at the 1978 trial with Judge Wiseman, but some of the same jury members that convicted him at the 1966 criminal trial. Later reversed on appeal because: (1) There was no evidence to support the verdict. (2) The verdict of the jury is contrary to the weight and preponderance of the evidence. (3) The Court erred in not charging the jury to take into consideration a promissory note executed by Respondent , prepared by an officer of the First American National Bank, kept in the First American National Bank's active note file, covering all checks held by said bank

and made an exhibit to the bank's testimony. (4) The indictment returned against Petitioner was under Chapter 322 of the Public Acts of 1967, said offense having occurred in 1966 under Section T.C.A. 39-1904, and said Act repealed this Code Section relating to obtaining money, property or credit by fraudulent check, draft or order, said Act of 1967 eliminating and changing every facet of punishment and fine contained under the Section T.C.A. 39-1904.

The jury selection of the criminal trial by Petitioner's own attorney, J. Victor Barr Jr., lasted only sixty seconds, and the entire trial, including the decision of the jury, lasted four and one half hours. It wasn't until the jury selection that the Petitioner learned that his own counsel had "conflicts of interest" and "personal financial involvements" with the Respondent bank. Judge Wiseman Jr. would not allow the transcript of the jury selection of the 1968 criminal

trial to be entered into the record at the 1978 trial against the Respondent, because he did not want the jury to know that the Petitioner was convicted in 1968 by a twelve-man jury who were either stockholders, employees, or debtors of the Respondent.

Again, in the 1978 trial, the first panel jury members that were to be selected were once again very involved with the Respondent. Some of these to-be-selected jury members were the same as some of those in the 1968 jury for the criminal trial against the Petitioner.

Because of this discovery, the Petitioner requested to remove all these jury members. In October, 1978, the Petitioner won the case under a new jury, and was awarded $999,999.00 in compensatory damages, and $250,000 in punitive damages, which with interest if compounded today would be $3,148,000.00.

However, if the Petitioner's attorney, Gareth Aden, had asked for 18 million dollars instead of 1.25 million dollars, and if Judge Wiseman had not excused the jury from hearing the value of the Petitioner's contracts, which was a guarantee of 18 million dollars, and that he would have probably made 50 to 100 million dollars, the Petitioner would have probably been awarded a much higher award. The Petitioner's claim of the 18 million dollar contracts was proven by the highly reputated Alfred Schlinger, who is one of the authors in the actual RCA contracts, and the Conference of Personal Managers contract between Ray Katz and the Petitioner, and all other major record contracts including Columbia Records, Capital Records,etc. The Respondent's own expert

witness did not contest the testimony of Alfred Schlinger, instead, he stated that all of Schlinger's testimony was true.

On June 1, 1979, Judge Wiseman Jr. entered an order, persuant to Respondent's motion, which granted the judgement notwithstanding the verdict, (JNOV), for the Respondent, and ordering a new trial if his decision was overturned on appeal.

At this point Petitioner went to the FBI to try to find out why the Judge took his 1.25 million judgment and gave it to the Respondent. It was when the Petitioner started to investigate Judge Wiseman, that he not only found out why the Judge took away his unanimous jury verdict, but also learned why the Judge would not allow any conspiracy documents into evidence, as well as Petitioner's deposition of many of his

Witnesses, including District Judge Joan Dempsey Klein of California, because it would show that Petitioner's California attorney, Robert D. Rentzer, questioned the Judge about a phone call she had her office make to see if there was a note at the Respondent bank before she would allow extradition, and that if she had not been told that there was no note of any kind for the Petitioner at the Respondent bank, that Judge Klein would not have allowed extradition of the Petitioner.

After speaking with the FBI office in Nashville, the Petitioner was then taken by the FBI to the U.S. Justice Department in Nashville. Petitioner learned that Judge Wiseman had recently sold stock in the Respondent bank, had several loans outstanding at the Respondent bank at the time of the trial, and that Judge Wiseman received another $10,000.00 from the

Respondent after the trial, while ruling on the (JNOV) to take Petitioner's 1.25 million dollars and return it to his Respondent business associate. At the very least, the previous stock involvement, and the loans, including the $58,000.00 loan the Judge had at the time of the trial, were definitely "conflicts of interest", and "financial involvements", but the additional $10,000.00 Judge Wiseman received from the Respondent after the trial while ruling to take the 1.25 million dollars from the Petitioner and give it to the Respondent, must be considered a bribe. The Petitioner went to Judge Wiseman's chambers and confronted the Judge as to why he took the $10,000.00 from the Respondent, after the trial, while ruling on the Respondent's (JNOV) motion, and Judge Wiseman Jr. informed the Petitioner that he had to pay his taxes. The Petitioner at this point asked for authorization to disclose all of the business dealings

that Judge Wiseman Jr. had with the Respondent, but Wiseman told the Petitioner that he would not give him such authorization, even though he had agreed earlier in writing to do so, and instead Wiseman told the Petitioner never to come back again.

The Petitioner is now afraid to go to Nashville and believes that Wiseman and the Respondent have tried to kill him on several occasions, and make it look like an accident. The Petitioner feels that he is entitled to an investigation into the business dealings between Wiseman and the Respondent.

March 12, 1984, the United States Court of Appeals for the Sixth Circuit

affirmed Wiseman's order. During the Sixth Circuit hearing, the Petitioner's new attorney, John Wessling, told the Petitioner that he would be arrested if he spoke out loud at the hearing. Also after agreeing with the Petitioner on the evidence of Wiseman's wrong doings, Wessling ensured the Petitioner that he would certainly present all this evidence at the hearing. However, at the hearing, when the Sixth Circuit asked that question, Wessling said, "Judge Wiseman did nothing wrong at the trial".

The Sixth Circuit ruled that Judge Wiseman's opinion was "well reasoned". However, if the Sixth Circuit would have examined the evidence the jury was allowed to see, instead of relying on the Judge's opinion, they would have realized that Judge Wiseman used false evidence to overturn the jury's 1.25 million dollar award to the Petitioner. For example, Judge Wiseman's opinion makes numerous references to the form of the note which should have been present if the note had been accepted by the bank, in direct contravention of the jury's findings. For example, Wiseman ruled that:

> "Item: The note, if accepted, would have contained a teller stamp with a sequentially consecutive number assigned to it." Record on Appeal, p. 18.
>
> "Item: The note would contain the stamp of the audit review committee . . . ." Id.

"Item: The note, if accepted, would have been initialed by a lending officer." Record on Appeal, p. 17.

"Item: The note in its consecutive numerical sequence would be entered in the 'committee book ledger'." Record on Appeal, p. 18.

However, these note forms in which the Judge used to overturn the jury's verdict were from the year 1972. All of the above-mentioned factors were present on the 1972 notes in which Judge Wiseman based his decision on. This clearly shows conspiracy on the part of the Judge because he knew the Petitioner's note was a completely different note form from the year 1966, yet he misled all higher courts because his decision to overturn the jury's verdict was based on this false evidence. This makes it abundantely clear

that the Judge was bias, not the jury, because the 1966 note in question had none of the items listed by the Judge which were said to be the reasons he overturned the verdict.

STATEMENT OF THE FACTS

Petitioner, prior to 1967, went to Nashville, Tennessee, to launch a singing career.

In Nashville, Petitioner met with Mr. Bob Ferguson of RCA Records who introduced him to Buddy Killen at Tree Publishing Company. Petitioner began demonstration recording sessions in 1965 and then in late 1965 and the first half of 1966, Petitioner recorded master tapes, produced under Mr. Buddy Killen.

During the summer of 1966, Petitioner began traveling to Los Angeles pursuing record contracts.

While the Petitioner was in Nashville, his parents gave him money regularly by either depositing the funds directly into his home bank accounts, or by wiring the funds to Western Union in Nashville.

In 1966, the Petitioner secured a $27,000 loan from the Commerce Union Bank of Nashville that was guaranteed by his Tree Publishing Company royalities. It was these funds that the Petitioner used to produce the master tape recordings which Katz later sold to RCA Victor Records, and it was these recordings that the Petitioner used to obtain the contract from Raymond Katz, Ltd.

Prior to this, in 1964, the Petitioner had been cashing checks at the Respondent's

West End branch which was adjacent to the Petitioner's apartment. In late September 1966, the Petitioner thought that his father had deposited $2,000 in his home accounts in Texas, as they had discussed earlier, but his father had misunderstood and wired the funds through Western Union to the Peitioner in Nashville, instead of depositing the funds as he normally did.

Since the Petitioner believed he already had that $2,000 in his home accounts, he had cashed a total of 7 checks at the Nashville bank totalling $1,450.00 before he discovered that the $2,000 was at the Western Union office in Nashville, instead of in his Texas bank accounts. He then went to Western Union office and got the $2,000.00 which his father had wired him.

It is undisputed that the Petitioner had explained about this human error to the Manager of the bank, Edgar Jones, and the Petitioner then went to the bank with $2,000 to try to pay for all seven checks which would be returning. But at that time, only 2 checks had been returned. The Petitioner paid $400.00 to Edgar Jones for these two returned checks and at the same time, offered to pay $1,050.00 for the remaining five checks which would be returning. But Edgar Jones told the Petitioner to go back to Hollywood for the contract negotiations, and when he returned to Nashville, he could

pay for the remaining checks.

When the Petitioner returned from Los Angeles, he contacted Mr. Jones and told him that he had no funds at that time to cover the 5 checks totalling $1,050. Edgar Jones said for the Petitioner to come in and sign a note, and when his contracts were finalized, he could pay the note at that time.

On November 15, 1966, Petitioner went to the branch of the bank and asked for Mr. Jones. An officer of the bank, M.V. Hussung, Jr. told the Petitioner that Mr. Jones was at lunch, but that he had left instructions for the Petitioner to sign a note. The Petitioner signed a note for $1,050 prepared by Mr. Hussung.

The Petitioner went back to the West Coast. On January 31, 1967, he signed -- a seven (7) year guaranteed 18 million dollar

contract with Personal Manager, Raymond Katz of Hollywood.

Following the Katz contract, the Petitioner signed a recording contract as well with RCA Victor Records on February 24, 1967.

On June 9, 1967, John Russell from the Respondent bank swore out a warrant for the Petitioner's arrest, and extradition occurred. This ultimately resulted in the Petitioner's erroneous 1968 conviction in criminal court, by means of fraud, forgery, and perjury, which was proven at the 1978 civil trial.

REASON FOR GRANTING PETITION

There are present exceptional circumstances warranting the exercise of this Court's discreptionary powers, and that adequate relief cannot be had in any other form or from any other court.

The application of rule 27 of the United States Supreme Court Rules should grant the writ because it will be in aid of the Court's appellate jurisdiction. The Sixth Circuit, in a recent opinion, has laid down the test for determining a judgment n.o.v.

> A judgment n.o.v. may not be granted unless reasonable minds could not differ as to the conclusions to be drawn from the evidence. Gillham v. Admiral Cor. (6th Cir. 1975), 523 F.2d 102, 109, cert. den., 424 U.S. 913, 96 S.Ct. 1113, 47 L.Ed.2d 318 (1976). In determining wether the evidence is sufficient, the trial court may neither weigh the evidence, pass on the credibility of witnesses nor substitute its judgment for that of the jury. Rather, the evidence must be viewed in the light most favorable to the party against whom the motion is made, drawing from the evidence all reasonable inferences in his favor. If after thus viewing the evidence, the trial court is of the opinion that it points so strongly in favor of the movant that reasonable minds could not come to a differnet conclusion, then the motion should be granted. Morelock v. NCR Corp., 586 F.2d 1096 (6th Cir. 1978).

This Sixth Circuit court of appeals has decided an important question of federal law which should be, settled by this court. The Petitioner won a unanimous jury verdict on proof of the merits at his trial, and the Respondent has been using illegal means by political maneuvering, financial business involvements,and bribery, to steal the Petitioner's 1.25 million dollar judgment verdict he was awarded at his civil trial. This is why the Respondent cannot get relief from any other court.

Since the Petitioner had proved that the Respondent had committed fraud, purgery and forgery at his civil trial, and Judge Wiseman could neither weigh the evidence, pass on the credibility of witnesses nor substitute his judgment for that of the jury, and since the evidence must be viewed in the light most favorable to the party against whom the motion

is made, the Respondent's theory of "probable cause" does not apply. Judge Wiseman could not rule by law that the jury was bias because he was the only one that had "conflicts of interests, and financial involvements" in the case.

CONCLUSION

The evidence against the Respondent was so overwhelming that no one could have ruled otherwise but for the Petitioner. For example:

> (Exhibit 1) -- This shows that the jury awarded the Petitioner 1.25 million dollars cash after reviewing the evidence for 4 days.
>
> (Exhibit 2) -- The jury after listening to only 2 songs, was so amazed of the Petitioner's talent that they were convinced that the 1.25 million award was fair and adequate.

(Exhibit 3) -- However, when this exhibit is examined, it is clear that the Petitioner would have probably even made 50 - 100 million dollars, considering all the song writing royalities, publishing royalities, performing at concerts, television appearances, motion pictures, record album sales, and radio air-play royalities which he would have been involved in after Raymond Katz's contract. This contract was the biggest entertainer contract in the world, it was in comparison with the contracts that Elvis Presley and the Beattles had signed; and it was even bigger than those which Katz had signed with Cher, Dolly Parton, Mac Davis, Donny & Marie Osmond and all of Katz's other entertainers.

(Exhibits 4,5,6,7,8,9 & 10) -- These exhibits show:

(a) that the United States District Judge of Nashville, Tennessee, L. Clure, Morton, who had ruled in favor of the Petitioner several times, suddently found his stock was purchased by the Respondent. The day he discovered that he had a Priprietary Interest with the Respondent, he recused himself from the case.

(b) that Judge Wiseman was a stockholder in the Respondent's corporation, and had a $58,000 loan with the Respondent during the trial, and obtained another $10,000 loan as a consequence of having ruled in favor of the Respondent.

(Exhibits 11 & 12) -- This exhibit shows that the note the Respondent entered at the criminal trial was a 1966 note form and the sample notes Wiseman used to overturn the jury verdict were 1972 note forms from the Respondent bank.

(Exhibit 13) -- This exhibit shows that Wiseman let the Respondent enter a letter as evidence of a check that even Clyde Stone, Respondents witness, denied knowing anything about. The only evidence of any check entered by the Respondent at the 1978 Civil Trial, was Exhibit 13, and the only checks entered at the 1968 Criminal Trial by the Respondent were the checks totalling 1,050. Tom Shriver, Respondent's Witness, did not enter any checks into evidence at the Civil Trial, but read a 2 page typed report instead, because he had no checks. He then testified that he thought the note was signed after the Petitioner was arrested, but the evidence proved he was wrong, Judge Wiseman, even though this was his first trial as a judge, he should have known that this typewritten letter was not evidence of a check, yet he ruled that the Petitioner wrote a $1750 check, with a $5 balance in his account at First American Bank in Nashville.

(Exhibit 14) -- This evidence shows that the Petitioner, and Respondents own witness was correct about the bank the check was written on, and the amount of the check. The Petitioner entered twelve personal checks, written in 1966, which had been processed and paid; into the evidence at the 1978 trial to be examined by the FBI handwriting examiner to prove the 1966 note entered by the Respondent was a forgery.

(Exhibit 15) -- This exhibit shows that M. V. Hussung Jr., was promoted from a note officer at a branch office of the Respondent, to President of Volunteer Capital Corp., with a 62 million dollar revenue and 1,314 employees. This evidence also shows that Bass, Berry & Sims are attorney's for Volunteer Capital Corp., they are also stockholders in the Respondent Corp. and attorney's for the Respondent in the Petitioners case. This evidence shows that the directors of the Volunteer Capital Corp. are also directors of the Respondents Corp.

(Exhibit 16) -- This exhibit proves the loan from Commerce Union Bank.

(Exhibit 17) -- These exhibits show the difference of opinion between District Judge Thomas Wiseman Jr. and District Judge L. Clure Morton of the Middle District of Tennesse, these exhibits also show that Judge Wiseman had a greater involvement with the Respondent than Judge Morton.

CERTIFICATE OF SERVICE

STATE OF TEXAS)
)
COUNTY OF BRAZORIA)

I am a citizen of the United States, and a resident of the county aforesaid. I am over the age of 18 years and I am a party to the within entitled action; my business address is P.O. Box 451, Lake Jackson, Texas 77566.

On May 9th, 1986, I served the within Petition For Writ Of Mandate To The United States District Court, Middle District of Tennessee on the interested parties in this action by placing three true copies in a sealed envelope, with postage thereon fully prepaid in the United States Mail at Lake Jackson, Texas, addressed as follows:

Bass, Barry & Sims
2700 First American Center
Nashville, Tennessee 37238

I certify under penalty of perjury that the foregoing is true and correct and was executed on May 9th, 1986, at Lake Jackson, Texas.

DON RAY PHINNEY
Petitioner In Pro Se.

EXHIBIT 1

Judgment On Jury Verdict

UNITED STATES DISTRICT COURT

for the

MIDDLE DISTRICT OF TENNESSEE, NASHVILLE DIVISION

CIVIL ACTION FILE
NO. 74-298-NA-CV

DON RAY PHINNEY	)	
	)	
	)	
vs.	)	JUDGMENT
	)	
FIRST AMERICAN NATIONAL BANK OF NASHVILLE	)	

This action came on for trial before the Court and a jury, Honorable THOMAS A. WISEMAN, JR., United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

It is Ordered and Adjudged as to the charges of malicious prosecution and outrageous conduct that the plaintiff, DON

RAY PHINNEY, recover of the defendant, FIRST AMERICAN NATIONAL BANK OF NASHVILLE, the sum of $999,999.00 compensatory damages and $250,000.00 punitive damages.

Thereupon the jury was polled and each juror affirmed the verdict as being his or her individual verdict.

FILED

October 31, 1978

Dated at Nashville, Tennessee this 30th day of October, 1978.

Julia B. Cross

Clerk of Court

EXHIBIT 3

1978 Civil Trial Transcript
Don Ray Phinney
vs.
First American National Bank

Mr. Schlesinger, based upon all your experience in the industry, and all of the testimony that you have given here today, can you give us a reasonable estimate as to what an artist in Mr. Phinney's position could have earned during the course of a career in the record industry?

MR. WALKER: Objection, if the Court please.

THE COURT: Sustained.

MR. ADEN: Your Honor, could we ask Mr. Walker to state the basis of hiss objection.

THE COURT: I will let you excuse the jury and make a tender of proof. I wouldn't let this witness testify as to that.

Let the jury be excused.

(Whereupon, the jury left the courtroom.)

THE WITNESS: Well, when I say many millions of dollars, I can't quote a figure as to whether it would be 25 or 50 or 100 million dollars, as some of the performers have made. I can only indicate that it, in my opinion, would be many millions of dollars, and I say probably in the range of 50 or 100 million. I don't know if that is conservative. That is liberal I would say. There are many variables, just as there are variables to the many millions of dollars earned by the Rolling Stones, as opposed to the Zeppelins, to Paul McCartney, as opposed to Diana Ross. They all earn many, many millions of dollars. Some more than others.

EXHIBIT 4

IN THE UNITED STATES DISTRICT COURT FOR

THE MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

March 23, 1972

DON RAY PHINNEY	)	
	)	
	)	
vs.	)	CIVIL ACTION
	)	NO. 6415
	)	
FIRST AMERICAN NATIONAL BANK AND J. VICTOR BARR	)	

ORDER

The motion of defendants for reconsideration filed March 13, 1972, is denied.

L. Clure Morton
United States District Judge

EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT FOR THE

MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

August 21, 1972

DON RAY PHINNEY	)	
	)	
	)	
vs.	)	CIVIL ACTION
	)	NO. 6415
FIRST AMERICAN NATIONAL	)	
BANK OF NASHVILLE AND	)	
J. VICTOR BARR	)	

ORDER ON MOTION FOR
PROTECTIVE ORDER

Defendant First American National Bank of Nashville will furnish to plaintiff the name sand last-known addresses of all male employees who were employed, stationed, or were on the premises of the bank location at which Mr. Edgar Jones was located on the date in question.

L. Clure Morton
United States District Judge

EXHIBIT 6

IN THE UNITED STATES DISTRICT COURT FOR THE

MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

OCTOBER 13, 1972

DON RAY PHINNEY	)	
	)	
	)	
vs.	)	CIVIL ACTION
	)	NO. 6415
	)	
FIRST AMERICAN NATIONAL BANK, AND J. VICTOR BARR	)	

ORDER

I hereby recuse myself in the above-captioned case.

L. Clure Morton
United States District Judge

ATTEST: A TRUE COPY
Brenden Lewis, Clerk
U.S. District Court
Middle District of Tennessee

EXHIBIT 7

UNITED STATES DISTRICT COURT
Middle District of Tennessee
Nashville 37203

Chambers of
L. Clure Morton
District Judge

October 27, 1972

Robert D. Rentzer, Esq.
Rentzer, Segall & Gilbert
6430 Sunset Blvd., Suite 1206
Hollywood, California 90028

Re: Don Ray Phinney v.
First American National Bank
and J. Victor Barr
Civil Action No. 6415

Dear Mr. Rentzer:

I have no hesitancy in advising you as to why I disqualified myself in the captioned case. On the date that the order for recusal was entered, I ascertained that a bank which is located in Knoxville, Tennessee, approximately 200 miles from Nashville, in which I own stock and in which I was formerly a director, had

entered into an agreement of intent whereby the holding company which owns First American National Bank would acquire the outstanding stock of the Knoxville bank. This, in effect, if it is brought to a conclusion, will give me a proprietary interest in First American National Bank.

The peculiar twist of this situation is that when I moved to Nashville from Knoxville to take this position, I disposed of all my stock holdings except my stock in a local bank in Knoxville. It was unforeseeable, at least by me, that this situation would ever occur. But at any rate you see why I felt it necessary to recuse myself.

Very truly yours,

L. Clure Morton

LCM/eh

EXHIBIT 8

Thomas A. Wiseman, Jr. and wife, Emily M. Wiseman

$58,000.00

First American Bank

Tullahoma, Tennessee 37388

Telephone 615-455-3488

E. Brac Thoma, III, CCL

President and Chief Executive Officer

April 6, 1977

EXHIBIT 9

H17639 **FirstAmtenn** 100

First Amtenn Corporation

Incorporated under the Laws of the

State of Tennessee

Thomas A. Wiseman, Jr.

October 20, 1977

Thomas A. Wiseman, Jr.

Equitable Securities Corporation

Andrew Benedict, III

EXHIBIT 10

H 17640 **FirstAmtenn** 100

First Amtenn Corporation

Incorporated under the Laws of the

State of Tennessee

Thomas A. Wiseman, Jr.

October 20, 1977

Thomas A. Wiseman, Jr.

Equitable Securities Corporation

Andrew Benedict, III

EXHIBIT 11

$1050.00 November 15, 1966

FOR VALUE RECEIVED ON DEMAND

First American National Bank

Don Ray Phinney

EXHIBIT 12

FIRST AMERICAN NATIONAL BANK OF NASHVILLE

NOTE NO.

LOAN TYPE

MATURITY 03-23-72

APPROVING OFFICER

DIVISION OR BRANCH

LOAN PURPOSE CODE

FIRST AMERICAN NATIONAL BANK OF NASHVILLE

NOTE NO.

LOAN TYPE

MATURITY 09-26-72

APPROVING OFFICER

DIVISION OR BRANCH

LOAN PURPOSE CODE

FIRST AMERICAN NATIONAL BANK OF NASHVILLE

NOTE NO.

LOAN TYPE

MATURITY 10-02-72

APPROVING OFFICER

DIVISION OR BRANCH

LOAN PURPOSE CODE

FIRST AMERICAN NATIONAL BANK OF NASHVILLE

NOTE NO.

LOAN TYPE

MATURITY 11-11-72

APPROVING OFFICER

DIVISION OR BRANCH

LOAN PURPOSE CODE

FIRST AMERICAN NATIONAL BANK OF NASHVILLE

NOTE NO.

LOAN TYPE

MATURITY 10-17-72

APPROVING OFFICER

DIVISION OR BRANCH

LOAN PURPOSE CODE

FIRST AMERICAN NATIONAL BANK OF NASHVILLE

NOTE NO.

LOAN TYPE

MATURITY 09-13-72

APPROVING OFFICER

DIVISION OR BRANCH

LOAN PURPOSE CODE

EXHIBIT 13

Law Offices of
HOFSTETTER & HOFSTETTER
American Trust Building
301 Union Street
Nashville, Tenn

G.B. Hofstetter
G.B. Hofstetter, Jr.

July 24, 1967

Mr. Don Ray Phinney
703 Americana Apartments
Nashville, Tennessee 37203

Dear Mr. Phinney:

This is to give you formal notice that the First American National Bank has refused payment on your check dated October 28, 1966, in the amount of $1,750.00 payable to my order.

This letter is intended as the notice required by the Statutes of Tennessee in cases where property is obtained on worthless checks.

I hope that you will make this check good within the five (5) day period allowed by law before action is taken.

Yours truly,

Clyde Stone

EXHIBIT 14

Personal Check

9/4/66

Lake Jackson STATE BANK

PAY TO THE ORDER OF

CLYDE STONE $625.00

DON RAY PHINNEY

EXHIBIT 15

VOLUNTEER CAPITAL CORP.

President: M.V. Hussung, Jr.

Revenue 62 million Employees 1314

Directors: Robert H.F. Armistead
David K. Wilson

Primary Law Firm: Bass, Berry & Simms

EXHIBIT 16

January 20, 1967

Commerce Union Bank

$27,000

Guaranteed Royalties on Recordings
Tree Publishing Company

11/20/67 Don Ray Phinney

EXHIBIT 17 (a)

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

January 1, 1979

DON RAY PHINNEY,	)	
	)	
Plaintiff	)	
vs.	)	
	)	NO. 74-298-NA-CV
	)	
	)	
FIRST AMERICAN NATIONAL BANK OF NASHVILLE,	)	
	)	
	)	
Defendant	)	

ORDER

In accordance with the memorandum contemporaneously filed herewith, it is ORDERED that the defendant's motion for judgment notwithstanding the verdict is granted, and in the event that the judgment of the Court on the motion notwithstanding the verdict is reversed on appeal, the

Court conditionally grants defendant's motion for a new trial upon the ground that the verdict of the jury is contrary to the weight of the evidence.

Thomas A. Wiseman, Jr.
United States District Judge

EXHIBIT 17 (b)

JOHN J. WESSLING, ESQ
6420 Wilshire Blvd.
Penthouse
Los Angeles, California 90048
(213) 655-5120

LAW OFFICES OF J.D. LEE NOLAN SHARDELL
8906 Kingston Pike, Suite 16
Knoxville, Tennessee 37923
(615) 691-1982

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

DON RAY PHINNEY, Plaintiff vs. FIRST AMERICAN NATIONAL BANK OF NASHVILLE, Defendant	))))) NO. 74-298-) NA-CV))MOTION FOR)RECUSAL))

Plaintiff, DON RAY PHINNEY, by and through his counsel of record, hereby moves

that the Honorable Thomas A. Wiseman recuse himself from hearing or deciding the motion filed in this case pursuant to Federal Rules of Civil Procedure. Rule 60.

This motion is made on the grounds that good cause exists for the Judge to recuse himself as appears with greater particularity in the moving papers and opposition papers filed in conjunction.

October 21, 1982

Granted

Thomas A. Wiseman, Jr.

EXHIBIT 17 (c)

Section 1 - Parent Companies

FIRST AMERICAN CORP.
(FORMERLY FIRST AMTENN CORP)

BASS, BARRY & SIMMS (Legal Firm)

FIRST AMERICAN BANK OF KNOXVILLE

FIRST AMERICAN BANK OF NASHVILLE

FIRST AMERICAN BANK OF TULLAHOMA, N.A.